

Serial No. **10/743,778**
Amendment dated **January 8, 2008**
Reply to Office Action of **October 9, 2007**

Docket No. **K-0597**

REMARKS/ARGUMENTS

Claims 1, 2, 5, 9 and 10 are pending in this application. By this Amendment, claims 1, 5 and 10 are amended and claims 4 and 6-8 are canceled without prejudice or disclaimer.

The Office Action rejects claims 1, 2 and 4-10 under 35 U.S.C. §102(e) over U.S. Patent No. 6,534,199 issued to Hosokawa et al. The Office Action also rejects claims 1, 2 and 4-10 under 35 U.S.C. §102(e) over U.S. Patent Publication No. 2005-0064233 issued to Matsuura et al.

Each of the rejections is traversed in light of the revisions of the claims. The traversal is set out below under the headings of the applied prior art.

No. 6,534,199 issued to Hosokawa et al. (Hosokawa)

In rejecting the pending claims based on Hosokawa, the Examiner alleges that formula 1 as well as the compound B1-X-B2 are disclosed. Specifically, the Examiner cites compounds EM 23 and EM 32 (which should read EM 34) of Hosokawa to support the rejection. Anthracene compound EM 23 is alleged to be the same as compound H-11 that is found in claim 5. Compound EM 34 is alleged to be the same as that defined by formula 1.

In response to the rejection, claim 1 has been limited to include the limitations of claims 4 and 6-8. In addition, the compound H-11 has been deleted from claim 5.

With the removal of compound H-11 from claim 5, the Examiner cannot use EM 23 as a basis for an anticipation rejection. Furthermore, it is argued that Hosokawa does not teach the light emitting layer now defined in claim 1 in terms of A1, A2, B1, B2, X, and the requirements regarding the substituents of A1 and A2, which are originally found in claim 8, but now incorporated into claim 1. Lacking a disclosure that teaches the claimed light emitting layer of claim 1, as amended, Hosokawa cannot be relied upon under 35 U.S.C. § 102(e) to reject claim 1.

In addition, there is no legitimate basis from which to formulate an obviousness rejection under 35 U.S.C. § 103(a). To make a rejection under 35 U.S.C. § 103(a) would be the impermissible use of hindsight and such a rejection could not be maintained on appeal. Thus, the rejection based on Hosokawa must be withdrawn.

U.S. Patent Publication No. 2005-0064233 issued to Matsuura et al. (Matsuura)

In rejecting the pending claims based on Matsuura, the Examiner alleges that formula 1 as well as the compound B1-X-B2 is disclosed. Specifically, the Examiner relies on the anthracene derivative compound EM 29 to allege that the claimed B1-X-B2 or H-11 of claim 5 is taught. Compound EM 98 is cited to allege that the claimed blue emitting material S-2 is known as well.

By the amendment to the claims, both H-11 and S-2 have been removed from the claims. Therefore, there is no basis from which to allege anticipation of the claims based on Matsuura.

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Lacking the ability to rely on compounds EM 29 and EM 98 to formulate a rejection, it is submitted that Matsuura cannot establish a *prima facie* case of anticipation against claim 1, as amended.

Furthermore, there is no legitimate basis from which to base a rejection under 35 U.S.C. § 103(a). As mentioned above, a further obviousness rejection would be tantamount to using hindsight and such an approach is not permissible. Thus, the rejection of claim 1 based on Matsuura must be withdrawn.

Dependent Claims

Since claim 1 has been demonstrated to be patentably distinguishable over both of Hosokawa and Matsuura, its dependent claims 2, 5, 9, and 10 are also in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **Daniel Y.J. Kim**, at the telephone number listed below.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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